

An Open Letter Regarding the Celsius Bankruptcy
By Jefferson Nunn
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When Celsius paused withdrawals on June 13, 2022, they set into motion a large chain of events. More than a million Celsius customers were immediately denied access to their digital assets. While we do not know the true numbers, we do know that among those million customers:

- Some have committed suicide
- Some have lost their homes
- Some have lost their healthcare and may die
- Many face an uncertain future

While entrusted with the care, custody and control of the depositors' Digital Assets, Celsius led by Alex Mashinsky abused that trust, gambled and lost. The Celsius customers are understandably outraged and grief-stricken at this massive betrayal of trust.

Celsius was promoted utilizing the ideas of transparency and that depositors could "unbank" themselves. In hundreds of interviews, Alex Mashinsky insisted that depositors' Digital Assets would remain safe at Celsius. The term Digital Asset is important as it denotes that it is not a currency.

The Celsius lending platform operated in much the same way that a collateralized lending platform operates with regards to other Assets – such as cars, stock certificates and the like. Utilizing the principles of a buy-sell agreement, Depositors could receive loans on their Digital Assets and entrusted Celsius with the long-term holding and management of the Digital Asset.

To earn greater returns, Celsius took both the collateralized lending platform's Digital Assets, as well as regular 'interest-bearing' depositors' Digital Assets and largely rehypothecated the Digital Assets to extremely risky investments promising large returns.

While the Celsius Terms of Use does state that Celsius retains full control over these Digital Assets, the statements made by Alex Mashinsky and others conflicts with this. In a 2018 interview with Coindesk¹, Alex indicated that Celsius makes microloans and lower low interest loans (at 9%) and providing a portion of that interest back to depositors (at 5%). He also makes a community bank analogy – that he would serve the best interest of all the members. He maintained that view in January 2022 interview with CEO Magazine². He lauds the company's bank-grade security to keep members Digital Assets safe, regulatory compliance, and making everybody win.

¹ <https://coincentral.com/alex-mashinsky-voip-to-moip/>

² <https://digitalmag.theceomagazine.com/us/january-2022/invest/alex-mashinsky/>

During his tenure at Celsius, Alex Mashinsky sold more than \$40 million of CEL tokens from his personal holdings, according to Global In Crypto³ and utilized Digital Assets under Celsius' care, custody and control to buy CEL tokens. Krissy Mashinsky (his wife) also used insider knowledge to liquidate CEL token holdings, according to a report by GRIPEO⁴. With these funds, she likely invested in various holdings to include Urban Outfitters, USA Strong and other business entities.

While Celsius made some of its' holdings visible on the blockchain⁵, it appears that many transactions were made 'off blockchain' and these transactions were not publicly disclosed until the bankruptcy. This conflicts with Celsius' stated position of "Transparency".

Waseem Shabout, the CSO of Celsius, in a July 29, 2020 podcast⁶, indicated that Financial Institutions would be the primary borrowers at 12% for certain Digital Assets. He touted the military security backgrounds of Alex Mashinsky and Nuke Goldstein in reference to the security of the platform and the safeguarding of Digital Assets. He stated that Celsius wants to be a force for good for its' members. He indicated that Celsius is a sustainable system that returns 80% of its' gains to its' customers.

Given the statements that have been made by top leaders at Celsius and given the limited amount of information that has been disclosed to the court to date, it is unlikely that Celsius can resume its business at any time. Its credibility has been tarnished and its leaders should be indicted by federal courts to fully determine what Celsius did with the Digital Assets under its care, custody and control.

There are several concepts that I feel remain unaddressed throughout the filings by Celsius and the statements by the courts. Digital Assets are unlike Fiat Assets. There are additional properties surrounding the Digital Assets that remain paramount. Based on this, all depositors of the Digital Assets should remain in a Secured Creditor position. Furthermore, the entire management team of Celsius must be replaced for the business to proceed. A forced conversion to a Chapter 7⁷ with sale to a third party is one way that this can be done.

Digital Assets retain superior properties over Fiat Currencies. Digital Assets can be tracked through its lifetime. It can hold additional information about the transaction at the time of the transaction. Proof that a transaction was made is viewable by members of the public. Digital Assets are more akin to stock certificates and even real estate holdings than the fiat currency. Given the severe dissonance between the statements made by the Celsius management team and the current position, all records concerning trade between all Celsius entities under its

³ <https://goblincrypto.com/celsius-used-customer-funds-to-purchase-its-own-token-as-alex-mashinsky-dumped-holdings/>

⁴ <https://www.gripeo.com/krissy-mashinsky/>

⁵ <https://www.coindesk.com/business/2022/06/16/how-crypto-lender-celsius-overheated/>

⁶ <https://pod.co/1-confirmation-with-jeff-and-emilio/1-confirmation-with-jeff-and-david-episode-9-waseem-shabout-celsius-network>

⁷ <https://nscattorneys.com/conversion-of-a-bankruptcy-from-chapter-11-to-chapter-7-2/>

control must be fully disclosed. Depositors of the Digital Assets should have full power to seek the recovery of said Digital Assets no matter where it went.

Currently, Celsius excluded several entities⁸ under its control from court oversight. This must be immediately rectified so that depositors of Digital Assets can continue to seek recovery. Given the current conditions and the fraudulent stances of the management team, clearly Digital Assets have been shifted beyond the purview of the courts. As Digital Assets are trackable, the transaction ledgers of each wallet should be provided to the courts so that depositors can recover their Digital Assets. This is in line with the Secured Creditor position. In many cases, Digital Assets have not been dissolved and liquidated but rather relocated to another holding account. To wit, 1 Bitcoin will always be 1 Bitcoin. The Bitcoin never dies.

The entire Celsius management team has shown little remorse for its' actions. Furthermore, they have shown little care for Digital Assets under its care, custody and control. They have sought to secure a superior position over these Digital Assets and to largely exclude all depositors – the very people that have provided the Digital Assets – from the benefits that Celsius is seeking. For example, they have positioned the depositors as 'unsecured creditors' – last in line, and they have sought to value the Digital Assets with inferior fiat dollars at the time of filing. This would mean that many depositors would end up with far less than the value of the original Digital Assets and provide Celsius with a means of escaping with large amounts of Digital Assets. For this, and many other reasons, such as threatened claw backs, clearly there is no concern by the Celsius management team to protect and preserve the members' Digital Assets under Celsius' care, custody and control.

There are many other entities that have expressed an interest in assisting the recovery process. Furthermore, there needs to be an extensive investigation into the real facts of Celsius. I am surprised that Alex Mashinsky remains a free man today and that his wife regularly tweets as if nothing has happened. Voyager, in its' bankruptcy process, has provided more transparency than Celsius. By now, there should have been FBI raids on their lavish penthouse in New York. There is a lot to unpack in this process and I sincerely believe that a full investigation into Celsius and every one of their officers is needed.

This full investigation does not need to be costly, either. The community has provided a lot of insights over these past couple of months. In fact, I suspect that we could crowdsource the recovery of Celsius. However, the attorneys for Celsius, the attorneys for the unsecured creditors committee and so many more attorneys are seeking to receive 35% or more of the recovered Digital Assets. This flies in the face as to what really should happen with a recovery process and how depositors' Digital Assets should be treated.

If, somehow, 1 million cars were stolen overnight, it would be unfair to expect everyone to receive 65% of their cars back. Or to have to pay billions to receive their car back. Or to receive

⁸ <https://pacer-documents.s3.amazonaws.com/115/312902/126122257414.pdf> page 44

a check for 65% of their car. None of these facts make sense when there clearly are 1 million cars in a parking lot somewhere in this scenario.

Likewise, we have witnessed a theft of Digital Assets on a scale not previously imaginable by a management team at Celsius that is implicit. Already there are ambulance chaser lawyers that are promising a recovery, in Fiat, and are greedily looking at the remaining billion of assets under Celsius' control. And we have seen a management team at Celsius that has been beyond careless and remorseless in this theft and the recovery process.

There were transactions made by borrowers during the month of May and June, 2022 wherein large amounts of crypto were deposited to Celsius to keep collateralized loans fully collateralized. In other instances, Celsius – without any notification – liquidated Digital Asset-backed loans without recourse to depositors. These transactions should be fully investigated, and the depositors should have the ability to recover these Digital Assets. The behavior of Celsius during this time is beyond abhorrent considering the bankruptcy filing. The depositors must have the right to recover their Digital Assets. Celsius has sought to exclude depositors from any rights of recovery.

During this time, Alex Mashinsky attempted to relocate to Israel⁹. There are still many questions about what this trip was about and why. He is attempting to sell assets, such as his house in Austin¹⁰. The 35,000 Ethereum lost by Stakehound should also be investigated. And there are rumors that Alex Mashinsky paid off certain personal loans and accounts in the period of time prior to filing bankruptcy.

The only group here that seems to care the most are the depositors and, to date, the bankruptcy process has granted them the least amount of power. The courts should grant the depositors a superior position and voice in this recovery. The courts should disallow any further raiding of the Digital Assets by Celsius or by greedy lawyers. The courts should initiate a process that would provide the greatest possible relief to the depositors. For example, investigations into the movement of Digital Assets by Celsius and more.

For the people that have died and that are suffering during this time, there needs to be a reconciliation. On 9/11, terrorists flew two planes into two towers killing thousands. There was a full accounting of the facts done on that event. For us, as depositors, we feel like our lives have been similarly upended. People have died. People are traumatized. People are suffering and dying due to lack of health care. All because Celsius has mistreated its' members. The government would not allow terrorists to remain in control during 9/11. Similarly, the courts should not allow thieves to remain at the helm of Celsius.

⁹ <https://watcher.guru/news/did-celsius-networks-ceo-try-to-flee-the-country>

¹⁰ <https://www.redfin.com/TX/Austin/2004-E-8th-St-78702/home/31370888>